

REMARKS/ARGUMENTS

Reconsideration of this application is requested. Claims 13-20, 31-36 and 39 are in the case.

I. THE ANTICIPATION REJECTION

Claims 13-18, 31-36 and 38 stand rejected under 35 U.S.C. § 102(b) as allegedly anticipated by Shorey et al (GB '372). That rejection is respectfully traversed.

As claimed, the invention is directed to a fastener in combination with a tube for securing the tube to a patient. The fastener comprises a sleeve of variable length capable when lengthened of gripping the tube.

Shorey does not anticipate the invention as now claimed. Shorey is directed to "cable grips" (page 1 line 3), which can be used "indoors or outdoors on any suitable structure such as a building or pole, down an excavation, in a mine shaft and elsewhere" (page 1, lines 26-29). Shorey has nothing whatsoever to do with tubes which are connected to patients. By reciting the presence of a tube in the amended claims, it is clear that Shorey is no longer anticipatory. Reconsideration and withdrawal of the outstanding anticipation rejection based on that reference are accordingly respectfully requested.

The Examiner has asserted that the device disclosed is Shorey is capable of securing a catheter or other medical tube to a patient. This is respectfully traversed.

The heavy-duty construction involved in the Shorey device would be likely to cause unacceptable crushing or obstruction of the medical tube. This heavy-duty construction of the Shorey device is necessary to provide a secure grip on cables "or

other elongate material, such as rope" (page 3, lines 79-81). See also page 3, lines 62-78, which describes the construction of the cable grips, and, in particular, refers to the use of galvanized steel wire as the most common material used. Such a device is likely to exert unacceptably high pressures on a catheter. The present application states, at page 6, lines 10-11, "It is noted that crushing is not appropriate for a tubular line as it would restrict its lumen."

For all of the above reasons, it is clear that Shorey does not anticipate the invention as claimed. Reconsideration and withdrawal of the outstanding anticipation rejection are accordingly respectfully requested.

II. THE OBVIOUSNESS REJECTION

Claims 37-39 and 43 stand rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Shorey. That rejection is respectfully traversed.

One of ordinary skill would not have been motivated to arrive at the presently claimed invention based on Shorey. Skilled persons seeking to provide a device for securing medical tubes to a patient would not have knowledge of the field of cable grips and would not be motivated to rely on Shorey for a solution. Even if one of ordinary skill would have been motivated to consult Shorey (it is believed that that would not have been the case), there is no suggestion in Shorey that cable grip devices could be adapted to make them useful as fasteners for securing medical tubes to patients. Shorey does not disclose any type of medical application. Rather, Shorey relates to heavy-duty cable grip devices that would be viewed by one of ordinary skill as clearly unsuitable for securing a medical tube to a patient. In light of this, one of ordinary skill

would not have been motivated to utilize a device such as that disclosed in Shorey in the context of the present invention.

Absent any motivation to resort to Shorey, it is clear that Shorey does not give rise to a *prima facie* case of obviousness. Withdrawal of the outstanding obviousness rejection is accordingly respectfully requested.

III. ALLOWABLE SUBJECT MATTER

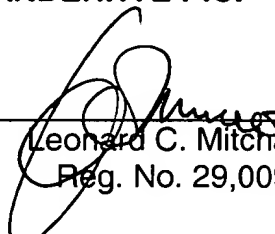
It is noted, with appreciation, that claims 19 and 20 are directed to allowable subject matter. With the amendments and arguments presented herein, it is believed that all of the claims in this application are now in allowable condition. Early notice to that effect is respectfully requested.

Favorable action in this application is awaited.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: _____


Leonard C. Mitchard
Reg. No. 29,009

LCM:lfm
1100 North Glebe Road, 8th Floor
Arlington, VA 22201-4714
Telephone: (703) 816-4000
Facsimile: (703) 816-4100